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10/734,771	12/12/2003	Ramakrishnan Rajamony	AUS920030887US1	1762

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EXAMINER

NOORISTANY, SULAIMAN

ART UNIT	PAPER NUMBER
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2146

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/734,771	Applicant(s) RAJAMONY, RAMAKRISHNAN	
	Examiner SULAIMAN NOORISTANY	Art Unit 2146	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

This Office Action is response to the application (10/734771) filed on 12 December 2003.

1. In view of the Brief filed on June 2, 2008, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

***.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

Art Unit: 2146

are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Beck** U.S. Patent App. No. **2004/0088349** in view of **Loguinov** U.S. Patent App. No. **US 2002/0169880** in view of **Burman** U.S. Patent App. No. **US 2001/0010059**.

Regarding claim 1, 10 and 17, Beck teaches wherein a method for providing a service for estimating the obtainable bandwidth of a client's network connection, said method comprising:

A service provider, receiving, from a server a request for a bandwidth estimation of a bandwidth of a connection between the server and the client **(the Web server requests the ISP to perform an action, which consists of providing information about the end-user's Internet access device and access link bandwidth– [0010])**.

However, Beck is silent in terms of “*providing the client with a snippet.*”

Loguinov teaches wherein service provider, responding to the request for bandwidth estimation by providing the client with a snippet to the server to serve first and second objects, in a chronologically sequential manner, to the client via the connection **(Fig. 1, 5)**;

receiving, from the snippet at the client information indicative of the time elapsing between delivery of the first and second objects **(Fig. 1, 6)**; and

estimating the obtainable bandwidth of the connection based in part on the elapsed time **(the receiver generates a special packet or acknowledgment packet**

(ACK) with the computed estimate value, $B_{sub.B}$, and transmits it back to the sender – [0006]).

However, Loguinov is silent in terms “*an executable configured.*”

Burman teaches that it is well known to have an executable configured to request **(Java applet – [0120]).**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beck's invention by utilizing a temporary user ID tokens which could be used to enable an ISP to share with a Web server information about the end-user's Internet access device as well as information about the bandwidth of the end-user's access link to the Internet. For example, if a user is connected to the Internet through a high-speed Internet connection such as DSL or cable, then the Web server can respond to a user request with multimedia-enriched content. On the other hand if the Web server determines that the end-user is connected to the Internet through an analog modem or a mobile access device with a slow Internet connection, then the Web server could respond with a scaled-down version of its content. As in the examples above, the Web server requests the ISP to perform an action, which consists of providing information about the end-user's Internet access device and access link bandwidth. After the ISP responds to the Web server with that information, it uses that information to formulate its response to the end-user's original request in a format appropriate for that end-user's client type, as taught by Loguinov.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beck's invention by utilizing client, server, and network

comprise elements in the Internet environment. In such embodiments, client may comprise or be equivalent to an Internet web browser such as NETSCAPE NAVIGATOR or MICROSOFT INTERNET EXPLORER, and adaptive agent is equivalent to an applet (e.g., a Java applet) obtained from server. An applet is a program (usually small in size) that is downloaded from the server and run from the browser on client. If the applet is written in the Java programming language, a Java virtual machine may be built into the browser and interprets the instructions. The term "executable software," as used herein, is not limited to, computer programs, or applications, computer or software code, lists or sequences of computer or browser implementable or executable instructions, commands, program steps, codes, etc., SCRIPTS, script files, Java Applets and program listings, regardless of format or form, as taught by Burman.

Regarding claim 11, beck, Loguinov and Burman taught the method as in claim 10 above. Loguinov further teaches wherein maintaining response time data for the server and alerting the server based the server response time for a selected client and the estimated bandwidth associated with the selected client (**Fig. 5-6**).

Regarding claim 12, beck, Loguinov and Burman taught the method as in claim 10 above. Burman further teaches wherein the snippet identifies the first and second objects with URLs that are unique on the network connecting the client and the server (**Each server has a unique URL address and, in fact, so does each web page and**

each file needed to display the web page – [0008]).

Regarding claim 13, beck, Loguinov and Burman taught the method as in claim 10 above. Beck further teaches wherein the server responds to the requests for the first and second objects by transmitting the first and second objects to the client from a content distribution network server that is architecturally proximal to an ISP server to which the client is connected **(Fig. 1).**

Regarding claim 16, Beck further teaches wherein the snippet, wherein the snippet includes:

instructions for creating first and second image objects **(multimedia-enriched content – [0032]);**

instructions for generating a unique identifier (uniqueID) **(Fig. 3);** and

instructions for associating the first and second image objects with the first and second objects on the server using URLs containing the uniqueID **(URL; Fig. 3-4).**

Loguinov further teaches **(Each packet in real-time application carries a burst identifier, which allows the receiver to distinguish packets from different bursts – [0021]).**

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck U.S. Patent App. No. **2004/0088349** in view of Loguinov U.S. Patent App. No. **US**

2002/0169880 in view of **Burman** U.S. Patent App. No. **US 2001/0010059** in further view of **Patel** U.S. Patent No. **US 6,731,600**.

Regarding claim 14, Beck, Loguinov and Burman taught the method as in claim 10 above. However, Beck, Loguinov and Burman are silent in term of size of the second object.

Patel further teaches wherein the second object has a size less than or equal to a minimum transmission unit associated with the network, wherein the second object is prevented from fragmentation **(the size of the second packet data is less than or equal to 500 bytes, the client computer assigns the second correction factor to be equal 60 milliseconds – Col. 11, lines 47-49)**.

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beck's, Loguinov's and Burman's invention by having a method for determining a transmission bandwidth wherein the method comprises receiving a first data packet and a second data packet from a server computer over a communication link to the server computer, and determining a transmission bandwidth of said communication link, responsive to the receipt of the data packets. In addition, accessing at least one identifier in a first data packet, where the identifier indicating that the first data packet and the second data packet are being sent back-to-back relative to each other. Furthermore, receiving the first data packet in the client computer; identifying a first point in time upon the completion of the receipt of the first data packet; receiving the second data packet; identifying a second point in time upon the completion

Art Unit: 2146

of the receipt of the second data packet; determining the difference between the first point in time and the second point in time; determining a quantity of data in the second data packet; and determining the transmission bandwidth based on the determined difference and the determined quantity, as taught by Patel.

Regarding claim 15, Patel further teaches wherein instructions for invoking the snippet multiple times to obtain multiple estimates of the bandwidth (the transmission bandwidth detector uses identified back-to-back data packets “refers to multiple” to determine the transmission bandwidth between the server computer and the client computer -- abstract, lines 10-13**); and**

instructions means for selecting a highest obtained bandwidth from among the multiple estimates of the bandwidth as the estimated bandwidth (**estimate the maximum transmission bandwidth for a network – Col. 9, lines 60-61**).

Loguinov further teaches (**fig. 5-6**).

Application/Control Number: 10/734,771
Art Unit: 2146

Page 9

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sulaiman Nooristany whose telephone number is 571-270-1929. The examiner can normally be reached on Monday Through Friday 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Pwu can be reached on 571-272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sulaiman Nooristany 06/17/2008

/Joseph E. Avellino/

Primary Examiner, Art Unit 2146

/Jeffrey Pwu/

Application/Control Number: 10/734,771

Page 11

Art Unit: 2146

Supervisory Patent Examiner, Art Unit 2146